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Before the
Federal Communications Commission
Washington, D.C. 20554

Petition of Bell Atlantic Corporation for Relief from Barriers to Deployment of Advanced Telecommunications Services	)))	CC Docket No. 98-11

Comments of

United Homeowners Association
American Council on Education
National Association of College and University Business Officers
National Association of Commissions for Women
National Trust for the Development of African American Men
World Institute on Disability
American Association for Adult and Continuing Education
Florida Association of the Deaf
Maine Center on Deafness
United Seniors Health Cooperative
Latin American Women and Supporters
National Latino Telecommunications Task Force
Massachusetts Assistive Technology Partnership
National Braille Press, Inc.
Alpha One
Keep America Connected
United States Hispanic Chamber of Commerce
MaineCITE Coordinating Committee
Northern Virginia Resource Center for Deaf and Hard of Hearing Persons
Universal Service Alliance
American Telemedicine Association
American Agri-Women
League of United Latin American Citizens
Campaign for Telecommunications Access
National Hispanic Council on Aging
Center for Independent Living of Central Pennsylvania

April 6, 1998

United Homeowners Association, the American Council on Education, the National Association of College and University Business Officers, the National Association of Commissions for Women, the National Trust for the Development of African American Men, the World Institute on Disability, the American Association for Adult and Continuing Education, the Florida Association of the Deaf, the Maine Center on Deafness, United Seniors Health Cooperative, Latin American Women and Supporters, the National Latino Telecommunications Task Force, the Massachusetts Assistive Technology Partnership, National Braille Press, Alpha One, Keep America Connected, United States Hispanic Chamber of Commerce, MaineCITE Coordinating Committee, the Northern Virginia Resource Center for Deaf and Hard of Hearing Persons, the Universal Service Alliance, the American Telemedicine Association, American Agri-Women, the League of United Latin American Citizens, the Campaign for Telecommunications Access, the National Hispanic Council On Aging, and the Center for Independent Living of Central Pennsylvania respectfully submit the following Comments in the above referenced proceeding.

Summary

Commenters represent a broad range of interests and organizations.[1] We are brought together on this filing because of our common view that advanced telecommunications capabilities can contribute significantly to the quality of life in this country.

[1] See Appendix 1 for a description of each organization and its interests.

To achieve this potential two things are needed: high-speed, high-capacity connections to places where we live, work, learn and play, and sufficient capacity in the national data network or the Internet backbone. Section 706 of the Telecommunications Act of 1996[2] was designed to help achieve these goals.

Commenters believe that the Commission should grant the relief requested in the petition filed by Bell Atlantic.[3]

I. Background

On January 26, 1998 Bell Atlantic petitioned the Federal Communications Commission (FCC) to take steps that will enhance the ability of local telephone companies to offer high-speed data services to homes, schools, the disability community, hospitals, community agencies, and businesses and relieve congestion on the internet. Specifically, the Petition requests that the Commission exercise "regulatory forbearance" under Section 706. The undersigned organizations support the Petition and urge the Commission to grant the relief requested in the petition on an expedited basis.

II. Bell Atlantic's Petition is Consistent with Section 706

Section 706 of the 1996 Act directs that the Commission encourage the deployment of advanced telecommunications capability to all Americans by removing barriers to infrastructure investment. Section 706 specifically authorizes the Commission to use regulatory forbearance to achieve this goal.

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[2] Public Law 104-104, February 8, 1996, 47 U.S.C. Section 157.

[3] Other petitions requesting relief under Section 706 have been filed by Ameritech, USWEST and the Alliance for Public Technology. Each of the petitions has merit. Commenters hope that by joining three of

The Petition seeks regulatory forbearance in three areas: (1) pricing, (2) resale, and (3) interLATA or long distance data service. The Petition asks that local telephone companies (1) be allowed to set market prices for advanced data services, (2) not be required to sell advanced data services at mandated discounts to competitors for purposes of resale,[4] and (3) be allowed to deliver data services over LATA boundaries.

If granted, the Petition will provide important incentives for local telephone companies to offer high-speed data services to homes, schools, health care facilities, universities, customers with disabilities,[5] and small businesses in their regions.

Several local telephone companies are beginning to offer a new type of high-speed data service commonly referred to as xDSL. xDSL service operates over regular telephone lines at speeds up to 8 Mbps (megabits per second) – more than 500 times faster than a standard 14.4 Kbps (kilobits per second) modem. But xDSL does not go through a local telephone company's switch. Unlike regular voice traffic or using a standard modem over a regular telephone line, xDSL service is a data packet service that does not tie up capacity on the local telephone network. With the appropriate regulatory incentives, xDSL service can reach up to 80 percent of telephone subscribers in the Bell Atlantic region.

Commenters do not stake a claim for xDSL nor do we argue that it is the preferred technology for delivering high-speed data services to homes, schools, health care

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the four petitions the Commission is signaling its intent to use the authority granted by Section 706 to provide promptly regulatory incentives for the deployment of high-speed, high-capacity data networks.

[4] The case for excluding high-speed data services from the requirements of Section 251 of the Telecommunications Act of 1996 and, more specifically, from the Commission's UNE/TELRIC pricing regime is convincingly illustrated in the amicus brief submitted to the Federal Court of Appeals for the 8th Circuit by the Alliance for Public Technology, etc. al. in the interconnection case (Iowa Board of Public Utilities v. Unites Stated of America) attached hereto as Appendix 2.

facilities, universities and colleges, small businesses and community service organizations. xDSL technology has limitations. xDSL speeds decrease with distance from a telco central office and upstream speeds are slower than downstream speeds (although still significantly faster than the advertised 128Kbps speed of ISDN service). If granted, however, the Petition will provide appropriate regulatory incentives for telecommunications companies to offer xDSL and other high-speed data services to consumers.

Commenters are optimistic that plans announced by several local telephone companies to deploy xDSL service over twisted copper pairs are the first in a series of infrastructure upgrades that will allow high quality two-way video to be delivered to homes, schools, health care facilities, universities and colleges, small businesses, and other facilities. This is the ultimate goal of Section 706. Its realization will, for example, allow people with hearing disabilities to sign to each other over the telephone. xDSL is an important step toward this goal.

III. InterLATA Relief for Data Services Will Provide Incentives for Deployment of Internet Backbone

Commenters recognize that the third element of the Petition – that local telephone companies be permitted to transmit data services over LATA boundaries – will be controversial. More than two years after passage of the 1996 Act, not a single regional Bell company has been authorized to enter the in-region long distance market. Several Bell companies have challenged Section 271 of the 1996 Act on constitutional grounds.

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[5] Pamela Gregory, deputy director of the FCC's Disabilities Issues Task Force, believes that Section 706 "[can] significantly benefit children with disabilities as well as children without disabilities and adults."

Notwithstanding these developments, Commenters urge the Commission to not allow the current proceedings to be mired in the controversies of 20th Century switched voice telephone service, but rather be viewed as an opportunity to jump start the high-speed, broadband revolution of the next millenium.

Chairman Kennard put it best in a recent interview when he said:

> "One issue that I'm particularly interested in is finding ways that we can foster more investment in high-capacity bandwidth. I believe that our nation will have an increasing appetite for bandwidth – for high capacity data transmission capabilities."[6]

The Commission will not achieve this goal if it evaluates the current petition in the context of voice telephony and the internecine warfare among interexchange carriers, regional Bell companies, and other providers. To achieve Chairman Kennard's goal, the Commission must not allow yesterday's unresolved controversies to dictate its decision about tomorrow's telecommunications infrastructure.

There is a more immediate and practical reason for granting Bell Atlantic's request that local telephone companies be allowed to transmit data services over LATA boundaries: It will provide an incentive to build Internet backbone.

Internet backbone is the core network of high capacity lines and computers that transmit and route Internet traffic around the country and around the world. Most Internet backbone is operated by a handful of large companies such as AOL, WorldCom, MCI and AT&T. With the growing popularity of the Internet, e-mail and the World Wide Web, the Internet backbone is getting crowded and is slowing to a virtual crawl. A recent study by Keynote Systems and Boardwatch Magazine found that, on average,

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See, Pamela Gregory. "The Telecommunications Act of 1996." 1998 Directory & Guide. 1997. Page 16.

[6] Jeannine Aversa, "FCC chief wants to untangle Internet congestion," The Associated Press, February 2, 1998.

users could not download information from the Internet at speeds faster than 40 Kbps.[7] This is slower than the new 56.6 Kbps modems that are now on the market.

Several colleges and universities have endorsed the Bell Atlantic petition.[8] As member of the I2 Consortium and regional Internet consortia, they recognize not only the need for new Internet backbone, but also the important role that new competition from local telephone companies can play in the high-end data market.

IV. Granting Bell Atlantic's Petition for Relief Is In the Public Interest

Just a few years ago, information that sped over the Internet was largely in the form of text. Today, on-line applications are filled with complex graphic material and streaming audio and video. Higher bandwidth and faster speeds are necessary so that consumers, students, teachers, health care professionals, businesses, people with disabilities, community organizations, government representatives and others can benefit from the Internet's potential.

For example, Americans who are blind were able to surf the net quite well in the days of text-based services. Today, they face new barriers in using information included in graphics and other components of web pages. The rapid deployment of advanced telecommunications services will help overcome these barriers.

Telemedicine, distance learning, video relay, telecommuting and other on-line applications to the home, school, college and university, health care facility, and

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[7] See, press release, "Keynote Systems Clocks True Speed On The Internet Highway at 5,000 Characters Per Second, or Only 40 Kbps," October 21, 1997.

[8] Supporters include Boston University, George Mason University, West Virginia University, Virginia Polytechnic and State University, The University of Maine System, The Massachusetts Institute of Technology, Brown University, NYSERNet, Virginia Commonwealth University, The Virginia Community College System.

workplace will only be possible if we have affordable high-speed connections to where we live, learn, work and play and if the internet backbone grows to meet new demands for capacity and speed.

Demand for high-speed data services and Internet backbone will increase, in part, as a result of forward-looking provisions of the 1996 Telecommunications Act. The Snowe-Rockefeller provision[9] provides discounts on telecommunications services, including connections, inside wiring and Internet services, to schools, libraries and rural health care providers. When the benefits of Snowe-Rockefeller are fully realized, demand for Internet backbone will soar as teachers, students, librarians, health care providers and others use the Internet as an integral part of their daily activities. Without incentives for the deployment of new backbone, the Internet may prove to be of limited value as a teaching and informational resource or as a tool to level the playing field for students with disabilities. A school can be connected to the internet with xDSL service or a T-1 line and students can speed to the internet over xDSL connections from their homes, but if they only receive data at the equivalent of 28.8 Kbps or 56.6 Kbps modem speed, the full potential of the internet in the classroom will not be realized.

Similarly, the requirements of Section 255 of the Act that people with disabilities have access to advanced telecommunications capabilities may only be fully realized if high-speed, high-capacity data services are widely available. [10]

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[9] Public Law 104-104, February 8, 1996, 47 U.S.C. Section 254.

[10] Pursuant to a commitment made to the disability community last year, Bell Atlantic incorporates a universal design process in the development of all products and services.

V. Conclusion

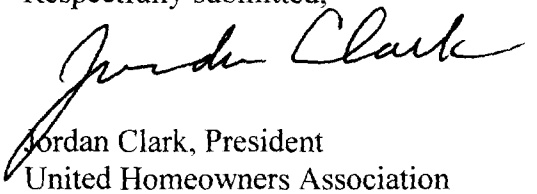
If granted, Bell Atlantic's petition for relief from regulatory barriers to deployment of advanced telecommunications services will provide important incentives for infrastructure investment by local telephone companies to develop and deploy these services and invest in Internet backbone. The Commission has an opportunity to jump-start the 21st Century. Commenters urge the Commission to seize the opportunity. Others will inveigh the Commission to proceed with caution, to consider an unlimited list of potential market problems and to postpone the future until it straightens out the past.

Again, as Chairman Kennard noted:

> "We have in this country already 40 million households that have home computers and most of those computers have more computing power than can be accommodated by the pipe into the home...So we've got to find ways in this country to increase bandwidth capacity."[11]

The Commission can meet this challenge, in part, by granting Bell Atlantic's petition for relief under Section 706.

Respectfully submitted,



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[11] See fn 3.

National Association of College and University Business Officers

National Association of Commissions for Women

National Trust for the Development of African American Men

World Institute on Disability

American Association for Adult and Continuing Education

Florida Association of the Deaf

Maine Center on Deafness

United Seniors Health Cooperative

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National Latino Telecommunications Task Force

Massachusetts Assistive Technology Partnership

National Braille Press, Inc.

Alpha One

Keep America Connected

United States Hispanic Chamber of Commerce

MaineCITE Coordinating Committee

Northern Virginia Resource Center for Deaf and Hard of Hearing Persons

Universal Service Alliance

American Telemedicine Association

American Agri-Women

League of United Latin American Citizens

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Appendix 1

The United Homeowners Association (UHA) is a national, nonprofit, membership based organization that represents the interests of homeowners in Washington, D.C. UHA has an active communications advocacy program on behalf of its members. UHA has promoted the interests of homeowners in telecommunications to Congress, before the FCC and in the Courts.

The American Council on Education (ACE) is a nonprofit association comprised of 1,850 colleges, universities and other educational associations. ACE supports efforts to enhance telecommunications services or offerings available to its members.

National Association of College and University Business Officers (NACUBO) members are nonprofit and for-profit organizations located in the US and abroad who are all committed to excellence in higher education, finance and administration. One of NACUBO's missions is to anticipate the issues affecting higher education across the world particularly the use of telecommunications as a means of sharing information and knowledge. NACUBO supports universal access to telecommunications regardless of ethnicity, income or geographic location.

The National Association of Commissions for Women (NACW) represents local commissions established to promote the interests of women in cultural, social, and economic fields. NACW supports policies and programs that empower women to make informed choices about all aspects of their lives. NACW has been active in the debate on

telecommunications reform, supporting legislative and regulatory initiatives to enhance competition, thereby creating new options and services for women as consumers and in their businesses.

The National Trust for the Development of African American Men is a national, nonprofit organization based in the Washington, D.C. area, that addresses the development, needs and challenges of African-Americans, especially males, in the areas of health, leadership, training, economic development, education, and crime prevention from an African view of the world. The Trust operates programs throughout the country with a particular emphasis on technology training and making computers and on-line services accessible in low income and underserved communities.

The World Institute on Disability (WID) is a private, nonprofit organization that serves as a research, training and public policy development center for the disability rights and independent living movements. Its Board of Directors and staff are predominately people with a wide variety of disabilities, and its work focuses on policy areas that are critical to the integration of people with disabilities into society. WID's Division on Technology Policy serves as a resource for disability organizations and individual activists who believe that people with disabilities can be empowered through technology. Its work centers search for ways to remove and prevent barriers to such use in the design of technology.

The American Association for Adult and Continuing Education (AAACE) is the nation's premier organization enhancing the professional development of adult learners and adult educators. AAACE has over 7,000 individual, institutional and affiliate members. AAACE members include secondary and post-secondary education professionals, business, labor, government, military and community-based organizations. AAACE recognizes the important role that the development of new telecommunications technologies and services can play in meeting the needs of its members and their constituencies.

Florida Association for the Deaf is an affiliate of the National Association for the Deaf, an organization of and for deaf adults.

The Maine Center on Deafness provides direct services to Maine residents who are deaf or hard-of-hearing and also provides information about hearing loss to individuals, companies and governments.

United Seniors Health Cooperative (USHC) is a charitable 501(c)(3) organization serving older people in the National Capital Area. USHC supports efforts to ensure that older people have access to advanced telecommunications applications to meet their health care and other needs by removing barriers to universal access.

Latin American Women and Supporters (LAWS) works to improve and promote information to Latin American women and their families through education. LAWS supports efforts to ensure that Latin American women have access to new

telecommunications technologies and services for education, jobs, and economic development opportunities.

The National Latino Telecommunications Taskforce (NLTT) was formed by a select group of Latino leaders concerned with the role of Latinos in the development of the National Information Infrastructure. The organization wants to ensure that the Latino community, minorities, the elderly, poor, the unskilled and non-English speaking immigrant populations will have an opportunity to participate in the information superhighway by ensuring that barriers to universal access are overcome.

The Massachusetts Assistive Technology Partnership was established to advance independence and employment for people with disabilities. The duty of the organization is to implement the Technology Related Assistance for Individuals with Disabilities Act making those with disabilities and the organizations which serve them aware of new technologies that can advance independence and employment for people with disabilities.

The National Braille Press is an organization that promotes the use of Braille by companies that communicate with the general public such as utility companies. The organization represents the interests of the blind through support of policies and programs that will promote the development of competition in all telecommunication markets to create innovative approaches thereby creating opportunities for the blind to participate in the information superhighway.

Alpha One is the largest center for independent living in Maine. Its members consist of both executives and managers who have disabilities and those who do not. Consumers of services have a wide range of disabilities including physical, sensory, developmental and multiple. Four offices located statewide enable thirty professional staff, many with disabilities themselves, to respond to the diverse needs of people across Maine. Alpha One is also a leading advocate in shaping public policy to address and integrate the needs of people with disabilities especially in the area of telecommunications.

Keep America Connected (KAC) is an organization comprised of groups whose demonstrated goals involve promoting a variety of telecommunications issues. The primary goal of KAC is that regardless of income, race, disability, age, ethnicity or geographical location affordable, access to the use of the modern telecommunications infrastructure and services should be available. This goal is best achieved through the rapid development of a fully competitive marketplace that ensures that consumers across the nation will have access to more services at lower prices.

United States Hispanic Chamber of Commerce (USHCC) believes that the biggest barrier to Hispanics interested in conducting business abroad is lack of information. The ability of Hispanics, as well as other minority entrepreneurs to successfully participate in export markets is constrained by inadequate marketing networks, scarcity of relevant information, a lack of financing capabilities, and inexperience. Even with goods and services marketable overseas, the average Hispanic entrepreneur knows very little about government duties, tariffs, trade restrictions, and whom to contact for information; all of

which is available through a variety of telecommunication avenues. The USHCC supports efforts to ensure that Hispanics and all minorities will have adequate and equal access to telecommunications avenues through an openly competitive marketplace.

The MaineCITE Coordinating Committee is Maine's "Tech Act" organization. The duty of the organization is to implement the Technology Related Assistance for Individuals with Disabilities Act making those with disabilities and the organizations which serve them aware of new technologies that can advance independence and employment for people with disabilities.

The Northern Virginia Resource Center for Deaf and Hard of Hearing Persons is the premier self-help and advocacy organization of and for deaf and or hearing impaired persons in Fairfax County, Virginia. The group supports efforts to ensure and promote universal access and new telecommunications technologies that will empower its constituents and create new opportunities in the workforce, education and society.

Universal Service Alliance is a coalition consisting of diverse organizations and community leaders serving low income, elderly, disabled and rural consumers throughout California. The coalition was formed in response to the California Public Utilities Commission (CPUC) efforts to introduce competition in local exchange markets without adequate rules to protect and advance universal service. USA has been an active participant in the CPUC's universal service proceeding and was instrumental in negotiating an agreement with Pacific Bell for the establishment of a Community Technology Foundation as part of the SBC-Pacific Bell merger proceeding.

The American Telemedicine Association (ATA) is an association whose objective is to promote improvement in the health care industry through telecommunications technology and broad based community telecommunications applications. The organization was instrumental in forming the Telemedicine Advisory Committee advising the FCC on implementing provisions on the Telecommunications Reform Act that provide for telecommunications services to rural health care providers.

American Agri-Women is a national coalition of farm, ranch and agri-business women founded in 1974. It includes 54 affiliates representing 150,000 women. The American Agri-Women is committed to efforts to ensure and promote universal access and new telecommunications technologies that will empower its constituents and create new opportunities in the workforce, education and society.

League of United Latin American Citizens is a non-profit organization whose involvement in telecommunications has varied over the years. LULAC is perhaps the most influential Hispanic grassroots organization in the country and has been very active in support of MJF relief.

Campaign for Telecommunications Access is a coalition that supports the goal that regardless of income, race, disability, age, ethnicity or geographical location affordable, access to the use of the modern telecommunications infrastructure and services should be available. This goal is best achieved through the rapid development of a fully

competitive marketplace that ensures that consumers across the nation will have access to more services at lower prices.

National Hispanic Council on Aging (NHCoA) has taken an active interest in telecommunications issues supporting the maintenance of affordable prices for basic phone services and the opening of the telecommunications marketplace to full competition which would allow seniors to benefit from services that will make the lives of Hispanics and all minorities easier and more productive.

Center for Independent Living of Central Pennsylvania is an organization that assists people with disabilities to live independently and become productive, fully participating members of society.

Appendix 2

IN THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No. 96-3321 (and consolidated cases)

IOWA UTILITIES BOARD, ET AL.,

Petitioners,

v.

FEDERAL COMMUNICATIONS COMMISSION
and UNITED STATES OF AMERICA,

Respondents.

On Petition to Review an Order of the
Federal Communications Commission

BRIEF AMICUS CURIAE OF ALLIANCE FOR PUBLIC TECHNOLOGY, UNITED HOMEOWNERS ASSOCIATION, NATIONAL ASSOCIATION OF COMMISSIONS FOR WOMEN, NATIONAL HISPANIC COUNCIL ON AGING NATIONAL ASSOCIATION OF DEVELOPMENT ORGANIZATIONS WORLD INSTITUTE ON DISABILITY

November 15, 1996

PRELIMINARY STATEMENT

The Alliance for Public Technology (APT), joined by other groups,[1] is a coalition of individuals and more than ninety nonprofit groups. The Alliance believes that the nation cannot reap the full benefits from advances in telecommunications technology unless everyone has full access to switched networks that are capable of providing, on a two-way basis, informational and transactional services using voice, high-speed data, graphics and video (herein termed "advanced telecom capabilities").[2] It has accordingly pressed this view upon Congress, the Federal Communications Commission (FCC) and the courts in appropriate proceedings.

APT and other amici submit this brief in support of the petitions seeking reversal and remand of the Commission's First Report and Order.[3] The brief is directed to only one issue -- namely, that the FCC's action constituted legal error because instead of following the clear prescription of the 1996 Telecommunications Act to afford incentives for the local exchange carriers (LECs) to make the investment needed to provide advanced communications capabilities to all Americans,[4] the Commission patently discouraged such investment. The grounds for our position follow.[5]

SUMMARY OF ARGUMENT

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[1] In the Appendix to this brief there is a short description of the other organizations joining in the brief.

[2] The APT position is set forth in two documents, "Connecting Each to All" (1993) and "Principles to Implement the Goal of Advanced Universal Service" (1995).

[3] First Report and Order, Implementation of Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98 (Aug. 8, 1996) (First Report and Order).

[4] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, Section 706.

[5] We rely upon the briefs of petitioners for the Statement of the Case. It would serve no useful purpose for this amicus brief to go over the facts covered at length in those briefs. In particular, we will not set out

Section 706 requires the FCC to act in every proceeding to encourage the timely deployment of advanced telecommunications. That directive is especially applicable to this critically important proceeding. By not exempting from the unbundling/TELRIC scheme the future deployment by incumbent LECs of advanced communications capabilities, the agency has placed a strong disincentive in the way of such deployment.

I. The 1996 Act calls for the FCC to encourage the deployment of advanced communications capabilities to all regions of the country.

The existing local telephone system is ubiquitous but narrowband as to residential subscribers, because its last distributional segment to the home (the local loop from the central office switch to the home) is based on a copper wire called a twisted pair. The computer and related information industries are growing at an extraordinary speed, with, for example, the number of transistors on a chip doubling every eighteen months.[6] The information industries thus generate enormous and growing quantities of high speed data. The long distance networks, based on fiber optic cable or very large capacity satellites, can handle these high volumes.[7] But when these transmissions come to the localities and involve residences or small businesses, the information superhighway becomes a "dirt road."[8]

There is thus a clear need for advanced telecom capabilities if the United States is to forge ahead in the information society that has emerged. Telecommunications -- a tremendous enabling technology -- must make a maximum contribution to efficiencies, so needed in this era of global

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the pertinent factual background as to the FCC's adoption of the TELRIC (Total Element Long Run Incremental Pricing) for the unbundled elements of the incumbent LECs (ILECs).

[6] See Bill Gates, "The Road Ahead," Viking, 1995, at 31-33.

[7] Id. at 30-31,

[8] Id.; see also Michael Dertouzos, Technology Review, Oct. 1991, reprinted in App. D, Fiber Optics: An Opportunity for a New Policy?", The Annenberg Washington Program, 1993.

competition, and to the quality of life in sectors like education, health care, telecommuting, energy conservation, the environment and the democratic process. It cannot do so without moving in a timely fashion into the advanced broadband capabilities at the local level.

The validity of the foregoing is affirmed by the express provisions of the 1996 Act. Thus, in Section 254(b)(2), the Act sets out as a guiding principle of universal service that "access to advanced telecommunications and informational services should be provided in all regions of the Nation." Even more important are the provisions of Section 706 ("Advanced Telecommunications Incentives"). Section 706(a) requires the Commission and state commissions to encourage the timely deployment of advanced telecom capability to all Americans by using "methods that remove barriers to infrastructure development," including "regulatory forbearance." If the FCC finds in a prescribed future proceeding that such deployment is lagging, it is to "...take immediate action to accelerate deployment of such capability by removing barriers to infrastructure investment and by promoting competition in the telecommunications market."[9]

II. The Commission erred in acting contrary to Section 706 in the First Report and Order.

The Interconnection proceeding was probably the most important Commission undertaking in implementing the 1996 Act. The Commission took far reaching steps to promote quick entry by new competitors in local telecommunications.[10] But the Commission had an equally important

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[9] Section 706(c) defines the term, "advanced telecommunications capability" as "high-speed, switched, broadband telecommunications technology that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology..."

[10] We do not address the issues, substantive or jurisdictional, raised by the First Report, and argued in petitioners' briefs. Thus, it is vigorously argued that the Commission lacked authority to adopt rules in the area of intrastate rates. This is clearly a substantial issue. See Order Granting Stay Pending Judicial Review, at 11-13. If that issue is resolved against the Commission, it would also, of necessity, end the